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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of Section 309(j) ) MM Docket No. 97-234  
of the Communications Act-- )  
Competitive Bidding for Commercial )  
Broadcast and Instructional )  
Television Fixed Service Licenses )  
 )  
Reexamination of the Policy ) GC Docket No. 92-52  
Statement on Comparative )  
Broadcast Hearings )  
 )  
Proposals to Reform the ) GEN Docket No. 90-264  
Commission's Comparative Hearing )  
Process to Expedite the )  
Resolution of Cases )

To: The Commission

REPLY COMMENTS OF  
CD BROADCASTING, INC.

1. CD Broadcasting, Inc. ("CD Broadcasting") replies to comments filed on January 26, 1998 by KM Communications, Inc. ("KM"). Both parties have filed competing applications for FM channel 255A at Parkersburg, Iowa.

2. Craig Donnelly, the sole principal of CD Broadcasting, has been active in efforts to secure a construction permit for this FM channel since 1994. He has petitioned the Commission to allot the channel to Parkersburg. He is a local broadcaster. CD Broadcasting owns and operates FM station KLMJ in nearby Hampton, Iowa. Mr. Donnelly manages that station on a daily basis and would similarly direct the operation of the Parkersburg FM station. He is neither a minority nor female.

3. KM holds a number of construction permits and existing station interests, including low power television interests in

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the Chicago area. Its headquarters are in Skokie, Illinois. KM also is an FCC application filer. An amendment of its application for Parkersburg filed in September 1996 (attached) lists 18 pending applications for new television station construction permits and ten pending applications for new FM station construction permits.

4. The Commission's rulemaking notice, at ¶¶86-91, refers to Supreme Court and Court of Appeals decisions adverse to according favored treatment of minorities and women, asking commenting parties who support such favored treatment to address the subject with concrete innovative ideas, sustainable in court litigation. KM's comments, at 9, (a) acknowledge the constitutional difficulties faced by the Commission in order to grant such favored treatment, (b) nonetheless ask for favored treatment both under KM's claimed minority and female ownership, but (c) offer no suggestions as to how the Commission might overcome those constitutional difficulties. Neither do other commenting parties.<sup>1</sup> The fact of the matter is that the law of

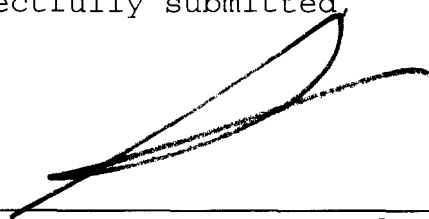
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<sup>1</sup> Sinclair Broadcast Group, Inc. states that favored treatment of minorities in auctions will not pass muster under Aderand and suggests that minorities might receive favored treatment in other ways, such as under multiple ownership rules, without explaining why this would fare any better under Aderand. James G. Cavallo, at 9-10, says favored treatment of minorities promotes program diversity and therefore "plainly meets" the Aderand holding, without any analysis except to cite a 1919 decision prior to the advent of broadcasting itself. AWRT provides a thoughtful essay on the subject of sex discrimination and Aderand, Lamprecht and VMI decisions, but, at 6, 10, 16-17, falls back on its recurring plea for government-sponsored studies to develop the data which AWRT believes will support its position.

the land does not allow such favoritism.

5. There is a category of favoritism which avoids the dubious foundation of race or gender, and which lies squarely in the main stream of federal communications law and policy dating back to the beginnings of the Commission itself, i.e., localism. With the proliferation of broadcasting conglomerates following passage of the Telecommunications Act of 1996, the need to support localism in broadcasting is greater than it has ever been. Comments have been filed urging the Commission to accord favored treatment under the auction rules for bidding parties who would be locally owned and operated. E.g., Comments of Tri-County Broadcasting, Inc. filed January 26, 1998 at 7-8. CD Broadcasting supports such a concept.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Gene A. Bechtel', is written over a horizontal line.

Gene A. Bechtel

Bechtel & Cole, Chartered  
1901 L Street, N.W., Suite 250  
Washington, D.C. 20036  
Telephone 202-833-4190  
Telecopier 202-833-3084

Counsel for CD Communications, Inc.

February 17, 1998

Courtesy copy mailed this date to counsel of record for KM Communications, Inc.

**KM COMMUNICATIONS, INC.**

3654 West Jarvis Avenue  
Skokie, IL 60076

William F. Caton, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Amendment of FCC Form 301 Application  
New FM Radio Station, Channel 255A, Parkersburg, Iowa  
FCC File No. BPH-951108MQ

Dear Mr. Caton:

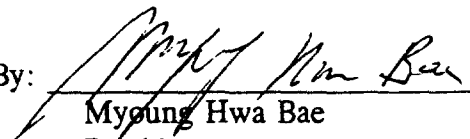
KM Communications, Inc. ("KM") respectfully submits this amendment to the above-referenced application. The amendment consists of a revised Exhibit A, to reflect the status of applications that KM has pending with the Commission, and a new mailing address for KM in the care of its attorneys, Irwin, Campbell & Tannenwald, as follows:

Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Avenue, N.W., Suite 200  
Washington, D.C. 200036-3101

Please incorporate the revised Exhibit A into the application, and forward all correspondence to KM to the new address. As an officer of the applicant corporation, by my signature below I certify that no party to this application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a.

Respectfully submitted,  
KM COMMUNICATIONS, INC.

By:

  
Myoung Hwa Bae  
President

Date: 4/4/96

Other Broadcast Interests and Pending Applications**I. Television Stations and Applications**

The applicant, KM Communications, Inc. ("KM"), is the permittee for a new full-service commercial television station on Channel 20 at Iowa City, Iowa (File No. BPCT-941215KG). KM has pending an application for minor modification of the permit to change the transmitter site (File No. BMPCT-960624KF).

KM has pending the following applications for new full service television stations:

| <u>Channel</u> | <u>Community</u>           | <u>FCC File Number</u> |
|----------------|----------------------------|------------------------|
| 56             | Syracuse, New York         | BPCT-941021KW          |
| 58             | Sierra Vista, Arizona      | BPCT-941021KI          |
| 11             | Pendleton, Oregon          | BPCT-941021KV          |
| 14             | Boise, Idaho               | BPCT-941215KF          |
| 20             | Salt Lake City, Utah       | BPCT-950109KE          |
| 23             | Ames, Iowa                 | BPCT-950109KG          |
| 11             | Jackson, Wyoming           | BPCT-950317KF          |
| 9              | Flagstaff, Arizona         | BPCT-950317KN          |
| 14             | Albuquerque, New Mexico    | BPCT-950317KG          |
| 36             | Hutchinson, Kansas         | BPCT-950824KK          |
| 19             | Muskogee, Oklahoma         | BPCT-950901KJ          |
| 38             | Greenville, North Carolina | BPCT-960404KK          |
| 4              | Crandon, Wisconsin         | BPCT-960404LJ          |
| 11             | Holbrook, Arizona          | BPCT-960404KE          |
| 62             | Arcade, New York           | BPCT-960405XF          |
| 46             | Gosnell, Arkansas          | BPCT-960405            |
| 32             | Provo, Utah                | BPCT-9604059L          |
| 34             | Spokane, Washington        | BPCT-960405XP          |

In connection with the applications for Channel 58 at Sierra Vista, Channel 9 at Flagstaff, and Channel 14 at Boise, KM is a party to joint requests for approval of settlement agreements on file with the Commission which, if approved, would result in the grant of KM's applications and the dismissal of all competing applications. In connection with the applications for Channel 56 at Syracuse, Channel 11 at Pendleton, Channel 20 at Salt Lake City, and Channel 36 at Hutchinson, KM is a party to joint requests for approval of settlement agreements on file with the Commission which, if approved, would result in the dismissal of KM's applications and the grant of a competing application. On July 22, 1996, KM filed a request to voluntarily dismiss its application for Channel 39 at Newton, Iowa.

Myoung Hwa Bae, who is the President, Director and 100% shareholder of KM, holds 50% of the membership interests in OKC-30 Television, L.L.C., an Oklahoma limited liability company ("OKC-30"). OKC-30 is the permittee for a new full-service commercial television station on Channel 30 at Shawnee, Oklahoma (File No. BPCT-950814KE).

## **II. FM Radio Stations and Applications**

KM is the permittee for a new full-service commercial FM radio station on Channel 270A at Pearson, Georgia (FCC File No. BPH-951108MK).

KM has pending the following applications for new full service FM radio stations:

| <u>Channel</u> | <u>Community</u>        | <u>FCC File Number</u> |
|----------------|-------------------------|------------------------|
| 239C           | St. Johns, Arizona      | BPH-951108MF           |
| 231A           | Merced, California      | BPH-951108MU           |
| 255A           | Parkersburg, Iowa       | BPH-951108MQ           |
| 248A           | Breese, Illinois        | BPH-951108MV           |
| 224A           | Neillsville, Wisconsin  | BPH-951108MY           |
| 264C           | Brigham City, Utah      | BPH-960507MR           |
| 225A           | New Holstein, Wisconsin | BPH-960507MU           |
| 245A           | Willard, Ohio           | BPH-960507MD           |
| 242A           | Atlanta, Illinois       | BPH-960603MC           |
| 248C1          | Mesquite, Nevada        | BPH-960822__           |

## **III. Low Power Television Stations and Applications**

KM is the licensee of the following Low Power Television ("LPTV") Stations:

WOCK-LP, Chicago, Illinois (formerly W13BE)  
WSKC-LP, Atlanta, Georgia (formerly W04BR)  
WMKE-LP, Milwaukee, Wisconsin (formerly W08BY)  
WOCH-LP, Chicago, Illinois (formerly W04CK)

KM holds a construction permit (File No. BMPTVL-940413FX, as extended in File Nos. BMPTVL-950320JC, BMPTVL-951016JE and BMPTVL-960531IA, and as modified by BMPTVL-960531IB) to modify WOCK-LP. KM holds a construction permit (File No. BMPTTL-940413FZ, as extended in File No. BMPTTL-960227JF) to modify WSKC-LP to operate on Channel 59, among other changes; KM also has pending an application for major modification of the permit filed May 16, 1996, to change the transmitter site for the station. KM also holds a construction permit (File No. BMPTTL-940413FY) to modify WOCH-LP to operate on Channel 28, among other changes.